



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail

Stephen P. Roberts
K&L Gates LLP
1601 K Street, NW
Washington, DC 20006

SEP 28 2016

RE: MUR 6954

Dear Mr. Roberts:

The Federal Election Commission notified your clients, James S. Gilmore and Gilmore for America, LLC and Karen F. Marcus in her official capacity as treasurer (the "Committee"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On September 23, 2016, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe that Gilmore violated 52 U.S.C. § 30102(e)(1) or that the Committee violated 52 U.S.C. §§ 30103(a) or 30104(b). Accordingly, the Commission closed its file in this matter. A Statement of Reasons providing a basis for the Commission's decision is not required in this matter, but if one is issued, it will be provided to you.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy, Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

If you have any questions, please contact Tanya Senanayake, the attorney assigned to this matter, at (202) 694-1571.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Y. Tran", with a long horizontal flourish extending to the right.

Lynn Y. Tran
Assistant General Counsel

Enclosure
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENT: James S. Gilmore MUR: 6954
6 Gilmore for America LLC and Karen F. Marcus
7 in her official capacity as treasurer
8

9 **I. INTRODUCTION**

10 The Complaint in this matter alleges that James S. Gilmore, a former governor of Virginia,
11 failed to timely file a declaration of candidacy for the 2016 Republican presidential nomination, in
12 violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). For the reasons set
13 forth below, the Commission finds no reason to believe that Respondents violated the Act.

14 **II. FACTUAL AND LEGAL ANALYSIS**

15 James S. Gilmore, former governor of Virginia, filed a Statement of Candidacy with the
16 Commission on July 29, 2015, for the Republican nomination in the 2016 presidential election.
17 Gilmore's principal campaign committee, Gilmore for America, LLC (the "Committee") filed a
18 Statement of Organization with the Commission on August 4, 2015. Gilmore withdrew his
19 candidacy on February 12, 2016.¹

20 The Complaint alleges that Gilmore became a candidate on July 7, 2015, based on his
21 statements to the press, and therefore failed to timely file his Statement of Candidacy.² In
22 response, Gilmore and the Committee assert that Gilmore became a candidate on July 17, 2015,
23 and that Gilmore and the Committee made all required filings in a timely manner.³

¹ See Gregory Krieg, *Jim Gilmore Leaves Presidential Race*, CNN (Feb. 12, 2016), <http://www.cnn.com/2016/02/12/politics/jim-gilmore-republican-2016/>.

² Compl. at 1.

³ Resp. at 2.

1 Under the Act, a “candidate” is an individual who seeks nomination for election, or
2 election, to Federal office; an individual shall be deemed to seek nomination for election, or
3 election, if such individual has received contributions or made expenditures in excess of \$5,000.⁴
4 Upon becoming a candidate, an individual has fifteen days to file a Statement of Candidacy
5 (FEC Form 2), and on that form, designate a political committee that will serve as the
6 candidate’s principal campaign committee.⁵ The principal campaign committee then has ten
7 days to file a Statement of Organization (FEC Form 1).⁶

8 The Complaint argues that Gilmore became a candidate prior to July 14, 2015, rendering
9 the July 29, 2015 Statement of Candidacy untimely filed. In making this argument, the
10 Complaint relies on statements that Gilmore reportedly made to newspapers and in public
11 appearances starting on July 7, 2015, stating that he intended to run for president and planned to
12 make a formal announcement of his candidacy during the first week of August 2015.⁷ The
13 available information, however, indicates that Gilmore had not met the \$5,000 candidacy
14 threshold prior to July 29, 2015. Specifically, the first disclosure report filed by the Committee
15 indicates that the Committee neither received contributions nor made expenditures exceeding
16 \$5,000 before July 29, 2015, the date on which Gilmore filed his Statement of Candidacy.⁸

⁴ 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a).

⁵ 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

⁶ 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1.

⁷ Compl: at 1 (citing Andrew Cain, *Gilmore Says He Will Run for President*, THE RICHMOND TIMES (July 7, 2015), http://www.richmond.com/news/virginia/government-politics/article_30b836ff-1768-5bcb-9681-f942acfb711f.html, and Nick Gass, *Jim Gilmore Adds to Ever-Expanding 2016 GOP Field*, POLITICO (July 8, 2015), <http://www.politico.com/story/2015/07/jim-gilmore-2016-presidential-race-119838>).

⁸ See Gilmore for America, LLC, 2016 October Quarterly Report (disclosing that the Committee received contributions of at least \$5,000 on July 29, 2015, and that it made over \$5,000 in disbursements subsequent to this date).

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1 Furthermore, the Complaint does not allege, and the available information does not suggest, that
2 Gilmore or the Committee in fact received contributions or made expenditures in excess of
3 \$5,000 prior to July 29, 2015. It appears, therefore, that Gilmore did not become a candidate
4 under the Act prior to this date.⁹

5 Accordingly, the Commission finds no reason to believe that Gilmore violated 52 U.S.C.
6 § 30102(e)(1) for failing to timely register as a candidate, or that Gilmore for America and Karen
7 F. Marcus in her official capacity as treasurer violated 52 U.S.C. §§ 30103(a) and 30104(b) for
8 failing to timely register and report as a principal campaign committee.

⁹ See Factual & Legal Analysis at 7, MUR 6819 (Krulick for Congress) (finding no reason to believe that Respondent had become a candidate where Respondent did not meet \$5,000 candidacy threshold until the date he filed a Statement of Candidacy, despite Respondent's alleged statements prior to this date indicating that he had decided to become a candidate).